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March 1, 2024

Commissioner Lori Weaver via Email: [Lori A. Weaver@dhhs.nh.gov](mailto:Lori.A.Weaver@dhhs.nh.gov)
Director Melissa Hardy, via Email: Melissa.A.Hardy@dhhs.nh.gov
Office of the Commissioner
New Hampshire Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301

Re: Access to Recreational Services for Adults and Children with Intellectual and Developmental Disabilities

Dear Commissioner Weaver and Director Hardy,

The Quality Council has received your response dated October 25, 2023, to our September 25, 2023 letter relative to our concerns around the interpretation of CMS guidelines relative to activities being determined as recreational and the negative impact of those services being removed from individual's service plans. (See attached letters dated October 25, 2023 and September 25, 2023). The issue with this interpretation is that it does not allow for individuals to access equivalent life experience as someone with no disability per the Federal Olmstead decision and RSA 171A. We must ensure as a system utilizing public monies that these activities remain accessible. There must be a commitment to fund the hole created by this gap to ensure no one is isolated and marginalized from their community.

We do understand that there are agencies and organizations that offer social gatherings which are sometimes funded by donations received but the system cannot purely rely on the kindness, charity and personal sacrifice of families and individuals from the womb to the tomb. What happens when agencies, families and the community cannot sustain this need through their generosity for the long haul? There must be a sustainable, reliable funding stream from state dollars within the Bureau of Developmental Services (BDS) budget specifically allocated as a line item for this need, pending a possible resolution with Center for Medicaid Services, (CMS).

It was concerning to learn that in the current operating budget there was no specific appropriation or authority to spend dollars for the actual cost of activities being interpreted as recreational/diversional especially coming out of the isolation resulting from Covid. We understand that you had indicated that there were no carry forward funds or other funding available to be utilized for purposes outside the waivers. We also understand that BDS did not have any available American Rescue Plan Act (ARPA) dollars and if, ARPA funds were available; the Department of Health and Human Services (DHHS), and BDS must seek approval from CMS to use ARPA funds in this manner. In order to address the lack of appropriation of funding for this critical quality of life domain, HB 1593 FN was

introduced relative to funding the actual activities that are no longer being covered under the waivers as an immediate short-term solution to this extremely critical issue.

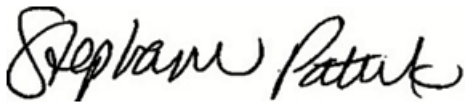
On February 14, 2024, a new/revised amendment (2024-07009H) to HB 1593 FN was passed. This would make an appropriation to the Department of Health and Human Services to fund recreational activities for individuals with developmental disabilities for the fiscal year ending June 30, 2025, allowing us to work together as a system on a more long-term sustainable funding stream from state dollars within the BDS budget for the 2026-2027 biennium.

We understand that you shared that the Department would be reaching out to CMS again asking that they consider funding recreation as part of the 1915 (c) waivers. During the February 14, 2024 hearing Representative Erica Layon inquired if DHHS would work with CMS to make changes as well. We agree that we need to continue partnering and working together to advocate and educate CMS and others regarding this lifelong ongoing critical need. We ask that DHHS share the contact information of the CMS delegate who was contacted and request an update of your contact with CMS as you indicated in your letter.

We would anticipate working together collaboratively with DHHS, BDS, and CMS during the development of the SFY 2026-2027 budget and request that this item be a prioritized need within the next budget.

We ask for a written response within 30 days of receipt of this letter. We welcome your input and future collaboration toward the achievement of our collective goals.

Respectively submitted,

A handwritten signature in black ink that reads "Stephanie Patrick". The signature is written in a cursive, flowing style.

Stephanie Patrick
Chair, Quality Council